CAMBRIDGE INTERNATIONAL EXAMINATIONS

GCE Advanced Subsidiary Level

MARK SCHEME for the May/June 2014 series

9084 LAW

9084/11 Paper 1, maximum raw mark 75

This mark scheme is published as an aid to teachers and candidates, to indicate the requirements of the examination. It shows the basis on which Examiners were instructed to award marks. It does not indicate the details of the discussions that took place at an Examiners' meeting before marking began, which would have considered the acceptability of alternative answers.

Mark schemes should be read in conjunction with the question paper and the Principal Examiner Report for Teachers.

Cambridge will not enter into discussions about these mark schemes.

Cambridge is publishing the mark schemes for the May/June 2014 series for most IGCSE, GCE Advanced Level and Advanced Subsidiary Level components and some Ordinary Level components.

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General Marking Guidance

- Marking should be positive: marks should not be subtracted for errors or inaccuracies.
- When examiners are in doubt regarding the application of the mark scheme to a candidate's response, a senior Examiner must be consulted.
- Crossed out work should be marked UNLESS the candidate has replaced it with an alternative response.
- Poor spelling, handwriting or grammar should not be penalised as long as the answer makes sense.
- Scoris annotations must be used.
- A blank space, dash, question mark and a response that bears no relation to the question constitutes a 'no response'.

This mark scheme includes a summary of appropriate content for answering each question. It should be emphasised, however, that this material is for illustrative purposes and is not intended to provide a definitive guide to acceptable answers. It is quite possible that among the scripts there will be some candidate answers that are not covered directly by the content of this mark scheme. In such cases, professional judgement should be exercised in assessing the merits of the answer and the senior examiners should be consulted if further guidance is required.

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Mark Bands

The mark bands and descriptors applicable to all questions on the paper are as follows. Maximum mark allocations are indicated in the table at the foot of the page.

Indicative content for each of the questions follows overleaf.

Band 1:
The answer contains no relevant material.

Band 2:
The candidate introduces fragments of information or unexplained examples from which no coherent explanation or analysis can emerge
OR
The candidate attempts to introduce an explanation and / or analysis but it is so fundamentally undermined by error and confusion that it remains substantially incoherent.

Band 3:
The candidate begins to indicate some capacity for explanation and analysis by introducing some of the issues, but explanations are limited and superficial
OR
The candidate adopts an approach in which there is concentration on explanation in terms of facts presented rather than through the development and explanation of legal principles and rules
OR
The candidate attempts to introduce material across the range of potential content, but it is weak or confused so that no real explanation or conclusion emerges.

Band 4:
Where there is more than one issue, the candidate demonstrates a clear understanding of one of the main issues of the question, giving explanations and using illustrations so that a full and detailed picture is presented of this issue
OR
The candidate presents a more limited explanation of all parts of the answer, but there is some lack of detail or superficiality in respect of either or both so that the answer is not fully rounded.

Band 5:
The candidate presents a detailed explanation and discussion of all areas of relevant law and, while there may be some minor inaccuracies and/or imbalance, a coherent explanation emerges.

Maximum Mark Allocations:

Question	1	2	3	4	5	6
Band 1	0	0	0	0	0	0
Band 2	6	6	6	6	6	6
Band 3	12	12	12	12	12	12
Band 4	19	19	19	19	19	19
Band 5	25	25	25	25	25	25

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1 How far is it true to say that Equity continues to have relevance today? Illustrate your answer with examples and case law. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the concept of Equity. Candidates are unlikely to offer any illustration, and no reference to the analytical issues within the question is expected within this Band.

Band 3 (7–12) Candidate gives a basic and generally accurate explanation of the historical development of Equity, but this is unlikely to have any detailed case/concept explanation and there will be little or no reference to the question. Candidates who give a purely historical account can receive no more than 12 marks. Candidates who fail to include any case law or example can receive no more than 12 marks.

Band 4 (13–19) Candidate gives an adequate explanation of the concept of Equity, and provides a concise and relevant historical account. There will be reference to and a definition of maxims, remedies and concepts with some case illustration. There may be some reference to modern applications and case examples (i.e. Mareva, Anton Pillar, deserted wives equity, estoppel, mortgages, trusts), but these may not be extensive or detailed. There will be some attempts to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the concept of Equity and includes a concise and relevant historical account. Candidate defines and illustrates maxims and remedies with appropriate case illustration throughout. Candidate makes good reference to modern application (as in Band 4), with clear and informed links to the question.

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2 Describe the selection and role of the judiciary. To what extent does the current system ensure that appropriate people are selected for the job? [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the judiciary, perhaps briefly identifying some aspects of their role, but no detail and no attempt to address the analytical component of the question would be expected within this Band.

Band 3 (7–12) Candidate gives a basic explanation of the role of the judge and makes a reference to the courts in which they work. There is unlikely to be any detail on selection and little or no reference to the analytical issues within the question.

Band 4 (13–19) Candidate gives an adequate explanation of the role of the judge and makes reference to the selection of both the upper and lower ranks of the judiciary. Some reference to the adequacy of the current selection process may be made, and candidates may comment on the imbalance of gender and background. Better candidates may address the analytical component but may not draw clear conclusions from the question.

Band 5 (20–25) Candidate gives a clear explanation of the role of the judge and the selection processes, and clearly links these processes to the analytical content. Better candidates may also include details of previous selection processes and will debate whether the current system is more appropriate.

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3 Gerry has been charged with theft of a silk scarf worth £60. Explain the stages in the court process through which he will pass and the decisions which he will need to make before trial. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate may identify the Magistrates and Crown Court, but is unlikely to recognise the offence as triable either way. Candidates are unlikely to offer any accurate detail on process.

Band 3 (7–12) Candidate recognises the offence as triable either way but is unable to provide accurate details of the process. If this is attempted, it may be weakly presented and poorly explained.

Band 4 (13–19) Candidate recognises the offence as triable either way and is able to describe with some detail and accuracy the process of mode of trial hearing and magistrates considering jurisdiction. Candidates may also make reference to a Defendant needing to consider legal advice and will include a brief mention of the duty solicitor. Some may also consider the application for bail, but this may be only briefly mentioned. Better candidates may go on to consider the factors which may influence the choice of court for the defendant, but this may be brief and will lack detail.

Band 5 (20–25) Candidate gives a clear and detailed explanation of the triable either way process. Candidate considers the need for legal advice, the mode of trial process, the possibility of bail and the alternate processes if a defendant pleads guilty. Candidate considers the implications of the choice of Magistrates' or Crown court in some detail and draws well-informed conclusions.

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4 "Different judges could reach different decisions in the same case dependant on which of the approaches and aids they choose"

Explain the various approaches and aids to Statutory Interpretation available to judges and evaluate the truth of this statement. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the three main approaches to interpretation, but goes no further. No accurate illustration by way of case law or by way of discussion of the evaluative issues would be expected within this Band.

Band 3 (7–12) Candidate gives a brief but generally accurate explanation of the main approaches. There may be a brief mention of cases, but these may be superficial in depth and may be poorly explained. There is unlikely to be any detailed discussion and very little, if any, reference to the analytical issues within the question.

Band 4 (13–19) Candidate gives an adequate explanation of the main approaches to interpretation, rules of language and other aids to interpretation, but may not have wide ranging cases or example illustrations. Better candidates may begin to address the analytical issues within the question, but this may be limited and may lack reasoned conclusions.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the approaches, rules of language and aids to interpretation with detailed and wide ranging illustrations. Candidate competently evaluates the issues within the question, covering the effect of the various approaches in particular.

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5 Discuss the function of tribunals in the English legal system. Assess the extent to which they provide a suitable alternative to the courts. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1–6) Candidate gives a very basic explanation of the role and function of Tribunals, but with no real detail or accuracy. There will be little or no analytical content.

Band 3 (7–12) Candidate gives a brief account of the role of Tribunals. However, the account is likely to be superficial and poorly explained. Candidates may include a discussion of other ADR issues, but this will not attract much credit unless it is addressed in the context of ADR generally. Candidates may introduce some commentary on its effectiveness as compared to the court system, but this is likely to be informal and will be lacking in legal detail.

Band 4 (13–19) Candidate gives an adequate explanation of the role and function of the Tribunal, including a good range of examples. Candidates will show an awareness of the changes made by the Tribunals, Courts and Enforcement Act 2007. Better answers will attempt to include some analytical content by comparing the courts and tribunals and discussing the advantages of the tribunal system.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the role and function of Tribunals, giving a wide range of relevant example and evaluating the effects of the 2007 Act (as in Band 4). Better answers may discuss in detail the differences between court and tribunal processes, and will draw sensible and well-informed conclusions.

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6 Explain the processes of selection and training of Magistrates. Critically analyse the adequacy of these processes. [25]

Band 1 (0) Irrelevant answer.

Band 2 (1-6) Candidate gives a very basic explanation of the magistracy but offers little detail on selection or training. Candidates make little or no reference to the analytical issues raised in the question.

Band 3 (7–12) Candidate gives a basic explanation of the selection and/or training of the Magistracy, but this is unlikely to contain any detail, and will contain little or no reference to the analytical component of the question.

Band 4 (13–19) Candidate gives an adequate explanation of the selection and training of the Magistracy. The accounts may not be balanced, but both must be considered to allow candidates to achieve marks in Band 4. There will be reference to the process of selection and there will be some level of detail on the training programme for Magistrates. There will be some attempts to link to the analytical component of the question.

Band 5 (20–25) Candidate gives a clear and very detailed explanation of the selection and training of Magistrates, and these components will be given equal weight in the response. The candidate considers the analytical component of the question and reaches reasoned and logical conclusions.

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